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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,250	06/21/2007	Gerhard Wagenblast	12810-00341-US1	9278
30678 7590 04/28/2010 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
FAISON GEL, VERONICA FAYE				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
04/28/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,250

Applicant(s)

WAGENBLAST ET AL.

Examiner

VERONICA FAISON GEE

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) 18-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Election/Restrictions

1. Claims 18-28 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12-22-09.
2. Applicant's election with traverse of Group II in the reply filed on 12-22-09 is acknowledged. The traversal is on the ground(s) that the solvent is a polar compound, fails to suggest that component (B) may be an NIR absorber or the use of a binder and that compound (A) is not a colorant. This is not found persuasive because the reference discloses that a number of solvents may be used although the example may disclose a polar solvent, non-polar solvents were not excluded; component (A) is a colorant as it exhibits a color when exposed to certain conditions, as a colorant is defined as a substance used for coloring a material, the fact that it changes color would not exclude it as being a colorant (i.e. red changes to purple). Although the reference does not disclose compound (B) may be used as a NIR absorber or the use of a binder does not exclude that the same component may have alternative uses and still perform as a NIR absorber or binder.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

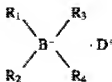
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murofushi et al (US Patent 5,607,803).

Murofushi teaches a cationic dye having absorbance from the visible region to the near infrared region is contained in a binder resin together with a decolorant and anti-discolorant agent (abstract). The reference further discloses a decolorizable toner which contains one or two or more types of cationic dyes selected from the group consisting of the cationic dyes represented with general formulas (1) and (2) shown below, having absorbance from the visible region to the near infrared region (col. 3 lines 40-45).



D⁺ represents a cation having the visible region to the near infrared region, while A⁻ represents an anion.



Wherein R_1 , R_2 , R_3 , and R_4 independently represent an alkyl, aryl-substituted alkyl, allyl-substituted alkyl, alkoxy-substituted alkyl, amino-substituted alkyl, aryl, alkyl-substituted aryl, allyl, alkenyl, alkynyl, cycloalkenyl, silyl or heterocyclic group, or two or more of R_1 , R_2 , R_3 , and R_4 together may form a ring structure (col. 3 lines 50-67). The reference discloses that specific examples of cationic dyes having absorbance from the visible region to the near infrared region include cyanine dyes, triaryl methane dyes, aminium dyes, diimmonium dyes, thiazine dyes, xanthenes dyes, oxazine dyes, diallyl methane dyes, triallyl methane dyes, stilyl dyes, pyrylium dyes and thiopyrylium dyes. These cationic dyes can be used alone or as mixtures of two or more types. And the reference discloses that examples of the anion A^- that composes the cation of the above-mentioned general formula (1) include anions represented by halogen ions, perchloric acid ions, PF_6^- , BF_4^- , SbF_6^- , OH^- , sulfonic acid ions and various borate compounds that appears to meet the limitations of claims 29-34 (col. 5 lines 31-col. 6 line 56). The reference discloses in the Table 1-4 dyes 15-A, 15-B, 15-C, Table I-10 dyes 38-A, 38-B, 38-C, 38-D, 38-E and Table I-13 Dye No. 50 & 51 that appears to meet the limitations of formula II, formula III and formula IV. Murofushi et al fails to specifically exemplify the use of the cyanine cation with the specific anion as claimed by applicant. Therefore, it would have been obvious to one of ordinary skill in the art to use the specific anion as claimed by applicant as Murofushi et al also discloses the use of specific anion but shows no example incorporating them with a cyanine cation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERONICA FAISON GEE whose telephone number is (571)272-1366. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorenzo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.A. LORENZO/
Supervisory Patent Examiner, Art Unit 1793

/Veronica Faison-Gee/
Examiner, Art Unit 1793